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Changes urged in the way the state picks top judges

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The failure of a nominating panel to include any women among seven candidates to be the state's chief judge is proof that the "system is broken" and needs a major overhaul, a prominent Brooklyn lawyer said at a hearing here today.

"There should be a call for the resignations of the members of the Commission on Judicial nomination," said the lawyer, Ravi Batra, who has sat on judicial-screening panels in Brooklyn.

Batra made his remarks before the Senate Judiciary Committee, which is holding up the confirmation of Gov. David Paterson's pick to be the state's chief judge, Jonathan Lippman, until the alleged bias issue is addressed.

Under a 30-year-old state law, Paterson was required to pick one of seven candidates presented to him by the screening panel, which is chaired by Elmira lawyer John O'Mara.

This time he was given the names of seven men - six whites and Theodore Jones, a current member of the Court of Appeals and an African American. He picked Lippman last month after complaining that no women were on the list.

Another witness at the hearing, former state Sen. John Dunne who helped to write the current law, warned against making any dramatic change.

"Take the record of the commission over the last 30 years," said Dunne, who was speaking on behalf of the Committee for Modern Courts, a reform group.

"The system works." He said it has taken money and much of the politics out of the system of picking top judges, who used to run for their offices.

He said the answer for the diversity issue is to tell the officials who pick the dozen members of the commission - the governor, legislative leaders and chief judge - "to appoint those who reflect the diversity of our state and also make their expectations clear to their commission appointees that diversity considerations must be a factor in the process."

Paterson named Lippman - whose background has been almost universally praised - for the state's top legal job to take the place of Judith Kaye, who was forced to retire at the end of last year because she turned 70.

Dunne pointed out as a sign that the appointive system has worked that while Kaye was on the bench, four out of the seven members were women, and that one of the men, Jones, was an African American.

But Batra said that the fact that two women known to be interested in the top job - Court of Appeals Judge Carmen Ciparick and Fern Fisher, the chief administrative judge of the New York City court system - were not on the list "was illegal discrimination."

The controversy is expected to slow, but not derail, the confirmation of Lippman, the presiding justice of the Appellate Division First Department and former state chief administrative judge.

"This issue is not about Judge Lippman," said Senate Judiciary Committee Chairman John Sampson, D-Brooklyn. But "it was a sad day when a woman was not on the list."
